

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 18.01.2006

CORAM:

THE HONOURABLE MR.JUSTICE P.K.MISRA
and
THE HONOURABLE MRS.JUSTICE CHITRA VENKATARAMAN

W.P.No.34581 of 2003

M.Meenakshisundaram

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Petitioner

versus

1. The Registrar
Tamil Nadu Administrative Tribunal
Chennai.

2. The District Revenue Officer
Ramanathapuram.

3. The Revenue Divisional Officer
Ramanathapuram Revenue Division
Ramanathapuram.

4. The Tahsildar
Thiruvadanai Taluk
Ramanathapuram Revenue Division
Ramanathapuram.

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Respondents

PRAYER: Writ petition filed under Article 226 of the Constitution of India for the issue of a writ of Certiorarified Mandamus calling for the records relating to order in Na.Ka.E1/28975/92 dated 20.3.1992 of the second respondent and the impugned order dated 29.9.2003 passed in O.A.No.2878 of 1992 by the Tamil Nadu Administrative Tribunal at Chennai, to quash the same and to consequently direct the respondents to regularise the service of the petitioner with effect from his date of appointment, i.e., 21.1.1994 and pay annual increments and other benefits with effect from 21.1.1994.

For petitioner : Mr.K.Lavan
For respondents-2 to 4 : Mr.S.Gomathy Nayagam
Special Government Pleader

ORDER

CHITRA VENKATARAMAN, J.

The writ petition is filed praying for a Certiorarified Mandamus to quash the order of the District Revenue Officer, Ramanathapuram, confirmed by the Tamil Nadu Administrative Tribunal in O.A.No.2878 of 1992 by order dated 29.9.2003 and to direct the respondents to regularise the services of the petitioner from the date of appointment on 21.1.1994 with all consequential benefits from thereon.

2. The writ petitioner was originally appointed as Karnam on 12.12.1977 by way of temporary appointment for Velanadu Group for a period of three months with effect from 12.12.1997. The appointment was thereafter extended under orders dated 27.5.1978 for a further period upto 31.5.1978. Thereafterwards, by order dated 8.6.1978, the petitioner's services was not extended, but was relieved on and from 31.5.1978. It is stated that the petitioner obtained a certificate of Karnam's survey training as early as 1979, and even on the date of initial appointment temporarily as a Karnam, he had passed the Pre-University Certificate in the year 1969 itself.

3. The hereditary system of village administration by the Village Munsif and Village Karnam was abolished in Ordinance 14/80, followed by the Act. With the result, on and from 14.11.1980, the old system of hereditary Village Karnam and Village Munsif post was abolished and all holders of the post were relieved thereon. The validity of the ordinance was upheld by the High Court and Supreme Court. However, an undertaking was given on behalf of the Government of Tamil Nadu before the Supreme Court that all Ex-Village Officials who had been holding the office as on 14.11.1980 and had lost the job on account of the ordinance would be given appointment as Village Administrative Officers in the new set up, provided, they had the requisite minimum general educational qualification and had not attained the age of superannuation. It is stated by the petitioner that since he had worked in the leave vacancies as Karnam even prior to the introduction of the Tamil Nadu Abolition of part-time Village Officers Act, 1981, he was called for interview by the Collector of Ramanathapuram through his letter dated 9.7.1991. The petitioner was the successful candidate and was appointed as Village Administrative Officer of Veeravanur Group, Paramakudi Taluk, under order dated 2.8.1991 by the

Revenue Divisional Officer, Ramanathapuram Revenue District, Ramanathapuram, the third respondent in the writ petition. However, the services of the petitioner was terminated under orders dated 20.3.1992 by the second respondent, namely, the District Revenue Officer, Ramanathapuram. The order of the second respondent, however, stated that the services of the petitioner appointed temporarily was terminated as per Rule 10(a)(i) of the Tamil Nadu Subordinate Service (General) Rules. Aggrieved of the termination without assigning any reason, the petitioner moved the Tamil Nadu Administrative Tribunal in O.A.No.2878 of 1992, praying for an order to quash the second respondent's order of termination and to direct the respondents to appoint the petitioner in any of the vacancies under their control. By an interim order dated 19.5.1993, the Tribunal directed that if there were vacancies available and persons similarly placed and junior to the petitioner were appointed and continuing in the post, then the petitioner could be appointed in any one of the vacancies temporarily. By order dated 21.1.1994, once again the third respondent herein appointed the petitioner as Village Administrative Officer in Pullur Group, Thiruvadanai Taluk, Ramanathapuram District. Ultimately, by order dated 29.9.2003, the Tribunal, however, dismissed O.A.No.2878 of 1992, taking a view that the petitioner had not acted as Village Munsif even for a single day, though the petitioner had claimed that he had passed the Karnam test and hence eligible to be appointed as Village Karnam or Village Munsif, it was not a ground to grant the petitioner the appointment as per the new Government Order. Consequently, it held that the appointment given was a wrong order which had been set right correctly by the third respondent herein. Aggrieved of the said view taken by the Tribunal, the petitioner has preferred this writ petition contending that the order of termination was unreasonable and contrary

to Clause 3 of G.O.Ms.No.954, Revenue Department dated 16.10.1997, which provided that even temporary Part-time Village Officers who had worked for a short period prior to 14.11.1980 possessing the required minimum qualification should be given appointment in any existing or future vacancy as per seniority. The minimum educational qualification required was a pass in S.S.L.C. examination and those Village Officers who held office on 14.11.1980 should have at least subsequently passed this examination as per G.O.Ms.No.1287, Revenue Department, dated 6.7.1988 and sponsored through the employment exchange. Considering the fact that the petitioner, even as early as 1969, had passed the Pre-University Examination and had worked as a Karnam on a temporary basis, the petitioner ought to have been considered for regular appointment. The petitioner also submitted that similarly situated persons who were junior to the petitioner were appointed as Village Administrative Officers and their services were regularised subsequently; hence, the action taken against the petitioner was arbitrary and in violation of Article 14 of the Constitution of India.

4. On going through G.O.Ms.No.954, Revenue Department dated 16.10.1997, it is clear that the claims of temporary Village Officers who had worked for a short period prior to 14.11.1980 was considered by the Government favourably to take them for appointment as Village Administrative Officers in the

vacancies available on certain priority basis, firstly to consider the claims of those Part-time Village Officers who held office on 14.11.1980 and were fully qualified in the light of the memorandum submitted by the Government before the Supreme Court; thereafter those Part-time Village Officers who held office on 14.11.1980 and had subsequently passed S.S.L.C. examination for temporary appointment as per G.O.Ms.No.1287, Revenue Department dated 6.7.1988 on being sponsored through employment exchange; and lastly, after exhausting these two categories, to consider the claims of the applicants who were not in service on 14.11.1980 but had worked as Part-time Village Officers for a short period prior to 14.11.1980, if they were otherwise fully qualified to be given appointment in any existing or future vacancy as per seniority maintained on the basis of their length of service. The Government Order is very specific that the Part-time Village Officers' request should be favourably considered and accommodated against the present or future vacancies. A perusal of the documents filed before this Court shows that the petitioner's case fit in with the requirements stated in the last of the priority list that the petitioner had the requisite educational qualification he having passed the Pre-University Certificate as early as 1969; that he had been appointed temporarily as early as 1977 and the services were extended till 31.5.1978. Considering the fact that he had worked part-time as a Village Officer prior to 14.11.1980, the grievance of the petitioner merits acceptance by this Court. Apart from this, the learned counsel for the petitioner pointed out to the order of the Tamil Nadu Administrative Tribunal in O.A.Nos.1700 and 1701 of 1992 dated 13th January 2003, wherein, two of the similarly placed candidates were considered for appointment by virtue of this Government Order. In the context of such positive action in respect of similarly placed persons and particularly in the context of the petitioner possessing the requisite qualification as stated in the Government Order, the order of the Tribunal that he had not acted as Village Munsif even for a day is incorrect, factually. Equally so, even on the educational front, the view of the Tribunal that there was no ground to grant appointment as per the new Government Order runs contra to the terms of the very Government Order which considered appointment of Part-time Village Officers favourably. The petitioner has stated in Ground No.(v) that G.O.Ms.No.954 dated 16.10.1997 was not brought to the knowledge of the Tribunal, as per which, the petitioner was eligible to be appointed as Village Administrative Officer. In the context of the said G.O.Ms.No.954 dated 16.10.1997, the petitioner, having thus satisfied the requirements in the Government Order, the prayer in the writ petition

deserves to be accepted and allowed by this Court.

Consequently, the order of the Tribunal dated 29.9.2003 is set aside and thereby, the order dated 20.3.1992 of the second respondent is set aside and the writ petition is allowed. The respondents are hereby directed to regularise

the services of the petitioner with effect from the date of his appointment, namely, 21.1.1994 with all consequential benefits. Connected W.P.M.P.No. 42006 of 2003 is closed. There will, however, be no order as to costs.

Sd/-
Asst. Registrar.

/true copy/

Sub Asst. Registrar.

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To:

1. The Registrar
Tamil Nadu Administrative Tribunal
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Ramanathapuram.
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Thiruvadanai Taluk
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- + 2 Ccs to the Government Pleader SR Nos.1614 & 2414
+ 1 CC to Mr. K.Lavan, Advocate SR NO 1479

W.P.No.34581 of 2003
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bvr(co)
gp/25.1.